

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

TREAUNA L. TURNER,

Plaintiff,

v.

PALLARES, *et al.*,

Defendants.

Case No. 1:21-cv-01721-JLT-BAM (PC)

ORDER GRANTING DEFENDANTS
MITCHELL AND SHOWALTER'S
ADMINISTRATIVE MOTION TO MODIFY
AMENDED DISCOVERY AND SCHEDULING
ORDER
(ECF No. 70)

Discovery Deadline: **July 23, 2024**

ORDER EXTENDING DEADLINE FOR
PLAINTIFF TO FILE OPPOSITION TO
DEFENDANT FREEMAN'S SUMMARY
JUDGMENT MOTION

Opposition Deadline: **May 27, 2024**

Plaintiff Treauna L. Turner ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff's first amended complaint against Defendants Showalter and Mitchell for deliberate indifference to medical care in violation of the Eighth Amendment and against Defendant Freeman for negligence (medical malpractice).

Pursuant to the Court's August 28, 2023 amended discovery and scheduling order, the deadline for completion of discovery is April 24, 2024. (ECF No. 63.) Defendant Freeman filed a motion for summary judgment on March 27, 2024, (ECF No. 68), and Plaintiff's opposition is

1 currently due on or before April 22, 2024, (ECF No. 69).

2 Currently before the Court is Defendants Mitchell and Showalter's administrative motion
3 to modify the amended discovery and scheduling order, filed April 5, 2024. (ECF No. 70.)
4 Defendants state that good cause exists for the request because Plaintiff has been medically
5 incapacitated since at least March 1, 2024, and as it is unclear when her health will improve,
6 Plaintiff is unable to sit for a deposition prior to the close of discovery. According to information
7 received from the litigation coordinator at Plaintiff's current institution, Plaintiff was too ill to be
8 moved or to handle her deposition noticed for March 1, 2024. As of April 4, 2024, counsel for
9 Defendants Mitchell and Showalter were further informed that Plaintiff's health was poor enough
10 that they had to send her back to an outside hospital, and it was safe to assume she would not be
11 able to handle a deposition before the close of discovery. Counsel further declares that counsel
12 for Defendant Freeman stated that they would be filing a motion for summary judgment in the
13 next month and would not oppose this motion. Defendants Mitchell and Showalter therefore
14 request an extension of the discovery deadline by 90 days, to July 23, 2024, to allow Plaintiff
15 time to recover prior to her deposition. (*Id.*)

16 Plaintiff and Defendant Freeman have not yet had an opportunity to file a response, but
17 the Court finds a response is unnecessary. The motion is deemed submitted. Local Rule 230(l).

18 Having considered the request, the Court finds good cause to grant the requested
19 modification of the amended discovery and scheduling order. Fed. R. Civ. P. 16(b)(4).
20 Defendants Mitchell and Showalter are unable to meet the current deadline for taking Plaintiff's
21 deposition due to Plaintiff's medical status. It appears Defendants were diligent in attempting to
22 take Plaintiff's deposition before the discovery deadline, and the Court finds that Plaintiff will not
23 be prejudiced by the extension granted here.

24 Furthermore, in light of the information provided here regarding Plaintiff's medical
25 incapacitation as well as the ambiguity of her mailing address, the Court finds it appropriate to
26 sua sponte extend the deadline for Plaintiff to file her opposition to Defendant Freeman's motion
27 for summary judgment to May 27, 2024. **If counsel for Defendants Mitchell and Showalter or**
28 **counsel for Defendant Freeman receive further information regarding Plaintiff's medical**

condition or her current mailing address, they should promptly so inform the Court.

Accordingly, IT IS HEREBY ORDERED that:

1. Defendants Mitchell and Showalter's administrative motion to modify the amended discovery and scheduling order, (ECF No. 70), is GRANTED;
2. The deadline for completion of all discovery, including filing all motions to compel discovery, is extended from April 24, 2024 to **July 23, 2024**;
3. All other requirements set forth in the Court's August 28, 2023 amended discovery and scheduling order, (ECF No. 63), remain in place;
4. On or before **May 27, 2024**, Plaintiff shall file an opposition to Defendant Freeman's motion for summary judgment, in compliance with Federal Rule of Civil Procedure 56 and Eastern District of California Local Rule 260; and
5. **A request for an extension of a deadline set in this order must be filed on or before the expiration of the deadline in question and will only be granted on a showing of good cause.**

IT IS SO ORDERED.

Dated: April 8, 2024

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE